

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MISSOURI
SOUTHEASTERN DIVISION

JONATHAN WRIGHT,)
Plaintiff,)
v.)
JUSTIN WOUTEN,)
Defendant.)
No. 1:17CV180 HEA

OPINION, MEMORANDUM AND ORDER

This matter is before the Court for review pursuant to Rule 4(m) of the Federal Rules of Civil Procedure. Review of the record indicates that defendant Justin Wouten has not been served with process.

Plaintiff commenced this action in this Court on October 13, 2017. On January 18, 2018, the Court directed the Clerk to serve process upon the complaint as to Justin Wouten, and a deputy United States Marshal attempted service via summons. On February 2, 2018, service was returned unexecuted. The return of service indicates that Justin Wouten is no longer employed by Scott County.

Rule 4(m) of the Federal Rules of Civil Procedure provides:

If a defendant is not served within 90 days after the complaint is filed, the court -- on motion or on its own after notice to the plaintiff -- must dismiss the action without prejudice against that defendant or order that service be made within a specified time. But if the plaintiff shows good cause for the failure, the court must extend the time for service for an appropriate period.

In the case at bar, the 90-day period within which service must be executed has already passed. However, as noted above, Rule 4(m) of the Federal Rules of Civil Procedure provides that the Court, **after notice to a plaintiff**, shall dismiss an action against any defendant upon whom service has not been timely made. In light of plaintiff's status as a pro se and in forma

pauperis litigant, he will be given the opportunity to provide the Court with adequate information such that defendant Justin Wouten may be identified and timely served under Rule 4(m). Plaintiff's response to the Court is due no later than twenty-one (21) days from the date of this Order.

Accordingly,

IT IS HEREBY ORDERED that, no later than twenty-one (21) days from the date of this Order, plaintiff shall provide the Court with adequate information such that defendant Wouten may be timely served with process.

IT IS FURTHER ORDERED that, in the absence of good cause shown, plaintiff's failure to timely respond to this Order shall result in the dismissal of this action, pursuant to Rule 4(m) of the Federal Rules of Civil Procedure.

Dated this 7th day of February, 2018



HENRY EDWARD AUTREY
UNITED STATES DISTRICT JUDGE